

REMARKS

This Amendment filed in response to the Office Action dated March 10, 2005, accompanied by an extension of time for two (2) additional month is timely filed within the five (5) month time period for response, which time period is set to expire today. Reconsideration of this application is requested in view of the foregoing amendments and the following remarks.

Before this amendment, claims 1-17 have been pending. Applicants have amended claims 1 and 2. Claims 8-17 are withdrawn from consideration pursuant to an election of species. Applicants confirm this election without traverse. Claims 1-7 are as amended are at issue in the office action and this response.

Support for the amendment to claims 1 and 2 are found in previously pending claim 1 and 2 since the amendment was formal only. Thus, no new matter has been added by this amendment.

Rejection of Claims Under 35 U.S.C. 103

Applicants respectfully traverse the rejection of claims 1, 3, 4 and 6 under 35 USC 103(a) as being unpatentable in view of U.S. Patent No. 6,228,323 (Asgharian); claims 1 and 3-7 in view of US Publ. No. 2002/0115578 (Groemminger) and claim 2 in view of Asgharian and Groemminger and U.S. Patent No. 5,209,865 (Winterton).

Due to the relatedness of these rejections, Applicants will present arguments relating to all of these rejections. It is with appreciation that Applicants recognize the Examiner's acknowledgement that "Asgharian et al. does not teach, with sufficient specificity, an article of manufacture" that is set forth in the present pending claim 1. Likewise, the determination that "Groemminger does not teach the use of ... a container formed from polyethyleneterephthalate and a composition containing surfactants, antimicrobial agents and the other requisite components of the composition..." is acknowledged with appreciation. Applicants assert that Winterton, likewise, does not teach a polyethylene terephthalate container containing a solution comprising surfactants, antimicrobial agents and other requisite components.

To date, Applicants are not aware of the use of any polyethyleneterephthalate (PET) container for a multipurpose lens care cleaning solution containing a surfactant and an antimicrobial agent. Commercial containers for lens care solutions are typically polyethylene (PE).

In fact, Applicants have discovered that PET containers have the unexpectedly positive result that it promotes long-term stability of the composition. The benefit of selecting a PET container over a PE is well established in the Examples of the present application. Example 4 shows that after six months of storage, Solution 1 showed a significant drop in biocidal efficacy when Solution 1 was stored in a HDPE bottle compared with storage of Solution 1 in a PET bottle. See Table 4. Example 5 shows a more pronounced drop in biocidal efficacy using Solution 2 stored for six months in a PE bottle versus Solution 2 stored for six months in a PET bottle. See Table 5. Clearly, a solution containing a surfactant and antimicrobial agent will perform better after a long period of storage in a PET bottle versus a PE bottle.

The industry has never known that PET bottles improved stability and shelf life. The benefit of using PET is significant. PET bottles can be used to store solutions with less antimicrobial agent or for longer periods of time. Less antimicrobial agent improves comfort to users. Longer shelf live is a significant benefit to the customer.

While the present invention may seem straightforward from a hindsight perspective, it is not in reality. By way of illustration, a novel change in a formulation that results in an improvement in the biocidal efficacy of more than 10 fold after six months of storage would be considered a significant improvement by industry standards. This same improvement can be realized by the novel concept of packaging a solution in a different bottle. Applicants assert that its invention is likewise a significant improvement.

In view of the foregoing arguments and amendments, Applicants believe that the present application is in condition for allowance. An early and favorable action on the merits is solicited.

Respectfully submitted,

P.T.L

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